

INDUSTRY CIRCULAR

OFFICE OF THE COMMISSIONER OF INTERNAL REVENUE
ALCOHOL AND TOBACCO TAX DIVISION



WASHINGTON 25, D. C.

Industry Circular No. 65-1

January 5, 1965

USE OF THE TERM "DRAFT BEER" ON LABELS AND IN ADVERTISING OF BEER.

To: Brewers, Wholesalers
and Importers of Beer,
and to others concerned:

Purpose. This Industry Circular is intended to advise industry members of the guidelines observed by the Alcohol and Tobacco Tax Division in administering and enforcing the labeling and advertising provisions of the Federal Alcohol Administration Act (27 U.S.C. 205(e)(f)) and regulations thereunder (27 CFR Part 7), in relation to the use of such terms as "Draft Beer", "Draft Brewed", "Draft Beer flavor", "Old Time on-tap taste", and like expressions or terms.

Background. For purposes of this document, the term "pasteurized" means the sterilization of the product through the application of heat, irrespective of whether such pasteurization occurs in bulk (prior to packaging) or after the beer has been packaged. According to dictionary definition, the term "draft" or "draught" means the "drawing from a cask or keg on order; as beer on draught."

The Federal Alcohol Control Administration (by Ruling No. 88 dated April 20, 1935) took the position that

"The words 'keg' or 'draught' may be used as part of the designation of class and type for domestic products of the Brewing Industry in bottles, which are unpasteurized and which otherwise conform to the trade understanding of draught products."

This ruling was subsequently followed by the Federal Alcohol Administration in connection with its administration and enforcement of the Federal Alcohol Administration Act and was adopted by the Alcohol and Tobacco Tax Division (then Alcohol Tax Unit) when it assumed responsibility for that function in 1940. It has been followed ever since. At the time this ruling was promulgated in 1935, domestic keg beer (beer served on draft) was not pasteurized, thus requiring refrigeration for preservation; whereas bottled beer was usually pasteurized for stability to insure reasonable shelf-life. There was one recognized exception to this practice.

Unpasteurized beer was also marketed in quart and half-gallon bottles under labels describing the product as "Draft Beer" and with a cautionary notice to the effect that the beer must be kept under refrigeration at all times. The F.A.C.A. ruling was made in recognition of this practice.

Changes in brewing, packaging and marketing technology and practices have since occurred. Today, methods other than pasteurization (for example, sterile filtration and aseptic filling procedures) are also used to assure adequate shelf-life. Flash-pasteurization (in bulk) permits brewers to pasteurize keg beer as well as bottled or canned beer. Thus, today, pasteurization is no longer a distinguishing characteristic between beer served on draft and beer available in the customary bottle or can. In addition, the former clear distinction between beer in barrels or kegs and beer in bottles has been confused by the use of metal containers of various comparatively small sizes, including those of gallon, gallon and a pint, and two and one-quarter gallon capacities, with taps, spigots, or faucets attached for purposes of drawing-off their contents.

Conclusion. In consideration of these changes in technology and marketing practices, brewers, importers, and wholesalers of beer are advised that the Alcohol and Tobacco Tax Division will observe the following guidelines in administering and enforcing the labeling and advertising provisions of the Federal Alcohol Administration Act and regulations thereunder.

1. Beer packaged in a container (of a capacity of one gallon or more) the contents of which are to be drawn off through a tap, spigot, faucet, or similar device may be described as "draft beer" whether the beer has been pasteurized, sterile filtered and aseptically filled, or unpasteurized and requiring refrigeration for preservation.

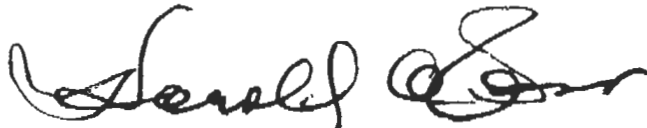
2. Beer packaged in the usual and customary bottles and cans may also be described as "draft beer" if the beer is unpasteurized and requires refrigeration for preservation, or if the beer has been sterile filtered and aseptically filled (but not pasteurized).

3. Beer packaged in the usual and customary bottles and cans may not be described as "draft beer" if the beer has been pasteurized. However, no objection will be made to the use of descriptive wording such as "Draft Brewed", "Draft Beer Flavor", "Old Time On-Tap Taste", or similar comparative expressions on such

pasteurized beer, if the label or advertisement also states that the beer has been pasteurized; Provided, that such statement as to its pasteurization appears in proximity to the comparative expression in type or printing of substantially the same degree of conspicuousness.

Time for Compliance. It is expected that all brewers, importers, and wholesalers of beer whose labels and advertising do not now conform with the above guidelines (irrespective of whether the labels in question have been approved in the past) will appropriately revise such labels and advertisements as are within Federal jurisdiction within a period of approximately six months from the date of this circular but in no event later than August 1, 1965. Any certificates covering labels not in accordance with these guidelines should be surrendered for cancellation not later than August 1, 1965.

Inquiries. Inquiries in relation to this circular should be addressed to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington, D. C. (Attention: CP:AT:B).

A handwritten signature in dark ink, appearing to read 'Harold A. Serr', is positioned above the printed name and title.

Harold A. Serr
Director, Alcohol & Tobacco Tax Division